(1)

92-769

No.

Supreme Court, U.S.
FILED
AUG 25 1992
OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1992

ERVIN SOMMER, Petitioner

VS.

SUPERIOR COURT OF CALIFORNIA,
SAN DIEGO COUNTY,
NORTH COUNTY BRANCH, Respondent

Real Party in Interest:

MARGARET D. SILZER

PETITION FOR REVIEW TO THE

SUPREME COURT OF CALIFORNIA

PETITION FOR WRIT OF CERTIORARI

ERVIN SOMMER, PETITIONER
IN PRO PER
218 E. GRAND AVE.
P.O. BOX 2277
ESCONDIDO, CALIFORNIA 92033
PHONE: (619) 746-8500

QUESTIONS PRESENTED

Does the California Civil Procedure, a statutory law, provide due process and equal protection when the respondent (petitioner) is excluded from participation in the civil trial, whereby only the Judge and Plaintiff are principals in the trial ? Amendment XIV United States Constitution.

Is the trial adjudicated under due process and equal protection when the Judge states to the respondent (petitioner), "I do not want to hear about it" whereby the Judge then orders the respondent to not give testimony, facts and exhibits during the civil trial? Amendment XIV U.S. Constitution.

Does the civil trial provided by California statute give fair and equal protection of the respondent and his/her rights when the respondent is excluded from trial participation by the Judge? Amendment XIV U.S. Constitution.

Does the trial provided by the state of California fall within due process and equal protection when the statute, CCP 116.110 through 116.950, and provisions prevent and does not permit appeal of judicial error, mistake of law, absence of jurisdiction, and procedural mishandling by the Court? 1,2

Does the California statute and California Civil Procedure conform within the United States Constitution and Admendments when there is not provision in the statute or Court procedures for informing the respondnet of the charges before the trial, disclosing exhibits to the respondent before or during trial, interrogatories, depositions, cross examination of witnesses, or opportunity to have trial by jury since the amounts at issue are at least $5000.00 and the issues are of complexity that exceed the usual cases under the California statute, CCP 116.110 through 116.950 ?
Amendment VII and XIV U.S. Constitutuion.

Does the California statute and CCP conform to due process, equal protection, and constitutional requirement of trial when the statute and CCP does not permit a customary trial where there is disclosure, interrogatories, depositions, crossexamination, jury, petition and written answer, and summation ? 1,2

Does the California statute and CCP provide for due process and equal protection, and constitutional trial provisions, when the Judge and statute makes mandatory the holding of trial when customary procedures of trial do not exist even though the respondent has presented a Motion to the Court to transfer and have trial where customary proceedings will exist in the Municipal Court of the State of California ? Amendment VII and XIV.

Does the California statute and CCP provide due process, equal protection, and a customary trial by common law and constitution when they specifically do not

permit appeal of a Counterclaim by a respondnet when the Judge denies a Counter-claim, and even when the original Court ordered that a Counterclaim testimony, evidence and exhibits will not be permitted to be given during trial at the original Court ?
Admendments VII and XIV U.S. Constitution.

Does the California statute and CCP provide due process, equal protection or a customary trial per constitution when the Judge orders the respondnet not to give testimony, evidence or exhibits that rebuts or exposes the plaintiff's testimony or exhibits which are reasonably considered to be erroneous or fabrications ?
Admendments VII and XIV U.S. Constitution.

Does the California statute and CCP provide due process, equal protection and customary trial per constitution when the Court and Judge omits the plaintiff from being identified in Trial, excludes the plaintiff from presenting his/her case,

giving testimony and exhibits that are in issue, permits the plaintiff to stand mute without justification or cause, but permits a meddlesome third party, who is not a witness nor a principal, to replace or substitute for the plaintiff in all matters and testimony before the Court, even if the California statute calls for the plaintiff to be present and participating, and the respondnet objects to the meddlesome stranger ? [1,2]

Does the California statute and CCP conform to United States constitutional provisions for trial or due process when the APPEAL per state statute is only a repeat of the originating trial at the lower court as Trial de Nova ? [1,2]

Was the trial conducted with due process, equal protection or as a customary trial in conformance with the United States Constitution ?

Admendments VII and XIV U.S. Constitution.

Footnote: 1. Admendment VII United States Constitution.

2. Admendment XIV United States Constitution.

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OTHERS

Small Claims Court, National Fifth Edition, a text by Attorney Ralph Warner. Reference to its Appendix, Small Claims Court Rules for the Fifty States and District of Columbia. 22

No.

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1992

ERVIN SOMMER, Petitioner

VS.

SUPERIOR COURT OF CALIOFRNIA
SAN DIEGO COUNTY,
NORTH COUNTY BRANCH, Respondent

Real Party in Interest:

MARGARET D. SILZER

PETITION FOR REVIEW TO THE

SUPREME COURT OF CALIFORNIA

PETITION FOR WRIT OF CERTIORARI

Petitioner, Ervin Sommer, respectfully prays that a writ of certiorari issue to review the judgment of the Supreme Court of California that denies a writ of

certiorari for review of the judgment and court proceedings in the case of Ervin Sommer vs. Superior Court of California, wherein there was violation of constitutional provisions for civil court procedures, due process, equal protection of the petitioner by law, judicial restraint in law, judicial mistake in law, and customary trial proceddings in California and the United States of America. The related California Statute is considered defective and uncontitutuional.

OPINIONS BELOW

CALIFORNIA COURT JUDGMENTS

The judgment filing notices for the California Courts are listed and copies of them are given in Appendix A, B, C, and D:

Supreme Court of the State of California
SO26198 May 27, 1992

Court of Appeal, Fourth District, CA.
D016398 Apr 7, 1992

Superior Court of California, San Diego County, North County Branch

N53680 Feb 14, 1992

Small Claims Court, North San Diego County

SC31582 Sep 23, 1991

The petition for certiorari, mandate or prohibition was denied by the Supreme Court of the State of California and the Court of Appeal, Fourth District Division One, San Diego, California.

The California Statute and code of Civil Procedure under which the case falls has given dispute whether a Writ would be entertained at the appellate court. An appeal upon merits is not permitted by the California Statute and Code of Civil Procedure (CCP). All case rights are specified as stopping at the Superior Court. There is not a California right, privilege or statutory provision for the appeal to the appellate court from the judgment or

court order in a case adjudicated under the state statute California Civil Procedure 116.110 through 116.950. The Court of Appeal, Fourth District, discourages special writs for review in its bulletins, and effectively states that few will be granted, writs interfere with the regularly scheduled workday and they are not encouraged for use.

JURISDICTION

The Supreme Court of California decision was filed May 27, 1992. A timely Petition for Rehearing was submitted to the Supreme Court of California and it was refused.

This Court's jurisdiction is invoked under Title 28, U.S.C. 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Amendment VII to the United States Constitition is set forth in Appendix H.

Amendment XIV to the United States Constitution is set forth in Appendix H.

Amendment XIII to the United States Constitution is set forth in Appendix H.

Statutory Provisions.

There are not any applicable United States federal statutes. The California Court of Small Claims is a creation of the state of California legislation. The statutory provisions for this Court and its procedures are contained in the California Civil Procedure section 116.110 through 116.950.

United States Code: Title 28, U.S.C. 1254(1) provides for the jurisdiction of the United States Supreme Court.

STATEMENT OF THE CASE

The petitioner Sommer comes before the Court in the matter of a civil case that was before the Municipal Court, Small Claims Court, and then on appeal by the respondent Sommer to the Superior Court of San Diego County, California.

The main issue relates to an agreement for personal service as a practitioner Estate Analyst that was performed by Sommer, upon being requested and solicited by a customer Margaret D Silzer. The only parties to the bilateral agreement were Sommer and M D Silzer, except indirectly the estranged spouse G. C. Silzer who would provide 38 years of family records for use in an impartial estate analysis that indicates the source and allocation of assets between the Silzer's. The work product would be useful in their dispute as to estate asset allocations between them.

Thereupon, about August 3, through

August 22, 1990, Sommer was solicited 3 times by M D Silzer to do work of an estate analysis. The practitioner Sommer who had done similar analyses, agreed to do work at $ 60 an hour for all hours worked with conditions as an independent contractor relationship, much of which was given in a Letter of Confirmation to do work dated August 23, 1990. The work hours were estimated to be 50 to 75 hours.

The practitioner Sommer completed the basic work assignment with written report October 10, 1990. The work product (report and personal consultation) was available October 12, 1990, to the customer upon payment of the agreed upon compensation. A balance of $ 1920.00 was owed since $ 1500.00 for the first 25 hours of performed work had been paid by the customer on September 27, 1990. Upon telephone notice to the customer M D Silzer on October 12, 1990, and by billing October 15, 1990, the

customer did not personally contact or respond to the practitioner's Sommer notice or inquiry.

The customer has not paid the balance owed of $ 1920.00 to this date in 1992.

However, the practitioner was bombarded by demands and provocations beginning in October 1990 by third party(s) who were considered meddlesome and strangers to the agreement of Sommer and the Silzers'. Such third parties indicated they wanted the work product of Sommer, but no person would provide for the balance owed of $1920.00. The third parties had not been a part or consideration in the agreement; therefore, their behavior would appear intruions and meddling, as well as interfering in an existing agreement relationship. Such third party(s) indicated he wanted to control the analysis content and report content which was contrary to the agreed upon impartial analysis. Third party(s) demands escalated

to when it was considered the behavior was coercive, threatening, and a hazard. One message left on the phone recorder was that Sommer would be given personal and business troubles if Sommer did not conform to the third party demands. Sommer did not comply with third party intrusions.

The third party and by implication the customer M D Silzer was essentially denying that compensation of $ 1920 was owed for hours worked, and that the work product was to be given to third party(s) for no compensation. The customer or third party would not make provision for paying the amount owed; therefore, the customer was in breach.

Such third party(s) initiated what was considered "ruses" to acquire the work product of Sommer without paying or providing for compensation. Appendix F is provided to explain some motivation that was resulting in the acts and behavior of the third party(s) and influenced a change by

the customer against Sommer. The change was from a reasonably friendly relationship by the customer to a hostile affront by the customer and third party.

However, it has been revealed that the customer in collaboration with third parties considered and did file a claim against Sommer based upon issues of contract breach which would give a money benefit, and as a by-porduct potential access to the Estate Analysis of October 10, 1990, without having to pay the balance of $ 1920 claimed by Sommer as owing him. The customer was essentially repudiating a completed agreement for work performed (personal service) by Sommer. The timimg of the claim in the Small Claims Court was compatible with any need of Sommer's work product or information for the cutomer's use in an event 2 months from the July 1990 date of the trial.

Thereupon, the claim came before the Court for hearing which was on September

1990, which was continued from July 1990 at the request of Sommer the reponsent. The hearing was before the Commissioner Daniel Ornelas, Small Claims Court of the Municipal Court at San Marcos, California.

Sommer filed a Counterclaim against plaintiff Silzer prior to the trial date, but Silzer refused service, and the service was given by the Marshall in the courtroom before the trial begain.

The respondent Sommer immediately made the Motions as follows which were denied by Commissioner Ornelas:

A. Transfer the case to regular Municipla Court Judge.

B. Court lacks jurisdiction due to lack of personal service. The Notice of Service is false in its contents.

The repondent Sommer mentioned to the Commissioner Ornelas that the Motions were to be appealed.

Thereafter, the plaintiff M D Silzer, prompted by a third party meddler with silent acqueisence by the Commissioner, gave oral testimony in essence that the agreement with Sommer had not been completed by Sommer, that she owed Sommer nothing and that Sommer pay her. Certain of her testimony appeared in error, a letter exhibit of October 15, 1990, was a surprise to Sommer and was considered made-up at a time later than October 15, 1990 and it was considered erroneous or self-serving, a declaration was a surprise to Sommer and its contents were considered false. The plaintiff Silzer had not informed Sommer, about her claim or exhibits before trial as it is required by California law, nor were the exhibits given or offered to Sommer during trial, or before handing over to the Commissioner Ornelas.

The Commissioner then nods to Sommer, whereupon Sommer begins to give rebuttal

and testimony to an erroneous statement of the plaintiff, at which time Sommer is ordered to quit. Sommer begins to give testimony of the agreement with Silzer whereupon the Commissioner states " I have heard enough". Sommer is not permitted to complete his testimony or present exhibits by this order of the Commissioner. Sommer is prevented from giving rebuttal testimony, evidence or exhibits, or in Counterclaim that shows that the agreement was completed by Sommer, money is owed Sommer in the amount of $1920, plaintiff Silzer benefited from work completed, and Silzer was in breach when not paying the amount owed of $1920.

The Commissioner gave a judgment to Silzer for $1500.00 and costs, essentially a refund of money paid for the first 25 hours of work performed by Sommer. Sommer was left with nothing for more than 55 hours worked and completion of the agreement.

A timely appeal to Superior Court was

made by respondent Sommer. The appeal provides for a new trial, as if starting over, in theory per the California Small Claims statute and CCP.

In practice and proceedings in the Court it does not work as if starting over a new trial. The plaintiff stuffed the Court file with exhibits unknown to the respondent Sommer, and the plaintiff Silzer did not disclose such a matter to Sommer before trial or during trial.

The Judge had reviewed such exhibits before trial as admitted unintentionally during trial, although the Judge's statement before trial was that he knew nothing about the cases and had not seen a case before the presentation in Court by the plaintiff and respondent appellant. This is considered to have been a material false statement coming from the Bench. The Judge is considered to have begun the trial biased and hostile against the respondent

appellant Sommer, and the continuation of the trial hearing indicated such existed.

Appellant Sommer asked plaintiff immediately before trial if there were any exhibits or surprises for Sommer. A reply from a third party was that there was none, Silzer did not speak.

The trial begain by direction of the Judge. The plaintiff Silzer stood mute and utterred nothing during trial. A third party considered a meddler, stated he was to substitute for the plaintiff, and the Judge Mitchell acqueisenced to this intrusion without substantial inquiry, without requiring identification, without requiring response of M D Silzer, and without requiring response of appellant Sommer.

The third party in substitute and replacing the plaintiff had not been a party to the agreement, he was devoid of

knowing agreement terms, customer and practitioner negotiations, work product status. The third party could only be giving hearsay and presumptions. The work product was personal to M D Silzer, the estranged spouse G C Silzer and the practitioner Sommer.

The third party made statements to the Judge during trial as if he were the plaintiff. Such statements were considered by Sommer to be erroneous and slander per se at times. The third party asked the Judge if he had an exhibit in the Judge's file, and the Judge answered - YES. The appellant Sommer to this day does not know what the exhibit was, nor if other exhibits were in the Judge's file, nor how the exhibits got in the file. Nothing was disclosed to Sommer although California Law requires such to happen.

The plaintiff nor plaintiff substitute by third party did not give any exhibits or

documents during trial to the Judge, but the plaintiff substitute gave only brief statements as testimony.

The Judge nodded to Sommer after the brief testimony by the plaintiff substitute. Sommer made a statement to the Judge in objection to the third party taking the place of the plaintiff Silzer. The Judge ignored such objection.

Sommer begain to give testimony and exhibits in rebuttal of plaintiff's claim, allegations, testimony and exhibit. The Judge interrupted and stated, "I do not want to hear about it", thus ordering the appellant Sommer to quit his appearance before the Judge. Sommer had prepared a Bill of Particulars of Appeal containing motions, evidence and exhibits for presentation to the Court file and Judge, all of which were refused and ignored.

Sommer begain to give an objection to the Judge, upon which the Judge immediately stated - "I am inviting you out of the

Court room", thus ordering the appellant Sommer to desist, to give no testimony, evidence or exhibits, and quit participating in the trial.

The Judge refused to determine facts or law. The Judge essentially had not handled a customary trial as expected to occur per the constitution and the California statute and CCP. The appellant was not permitted to participate in a proper appeal or constitutional hearing in Court.

The Judge then issued an ordering affirming the lower court judgment of $1500, and upped an amount of $250 for an attorney that did not appear in Court, and the party Sommer had not been informed about. Also, there was not a disclosure if such attorney had been active in court proceedings prior to the trial date.

Appeal by Writ to the Court of Appeal.

The appellant Sommer then appealed by Writ to the Court of Appeal, California. The writ

of Certiorari, Mandate or Prohibition was denied by the Court of Appeal, Fourth District, State of California, Division One at San Diego, California. The writ indicated the unconstitutionality of the trial or statute. A petition for rehearing was given the Court of Appeal and it was not accepted and denied.

Appeal by Writ to the Supreme Court, State of California. A Petition for Review was filed with the Supreme Court of California, which was denied. A Petition for Rehearing was sent to the Supreme Court of California, but it was not accepted and denied. The petitions to the Supreme Court of California presented questions of lack of constitutionality in the trial and statutory procedure in handling the trials. References were made to the United States Constitution.

Appeal Rights. There is not a right to appeal the judgment from the Superior Court

in a California Small Claims Action to the Court of Appeal or Supreme Court of California. A review by Writ is the only opportunity to file in the Court of Appeal and later in the Supreme Court of California. The Writ of review is discouraged by the Court of Appeal, seldom approved, and is not considered available to test the constitutionality of the small claims statute. Cases of record indicate the Writ has been accepted where there was question of uniformity in the application of the small claim court procedure, CCP, but not question of law, fact or conformance to United States Constitution.

Refer to page "viii" for a listing of such California Court of Appeal cases. A right to a Writ does not exist. A writ may be denied by the Court of Appeal and Supreme Court for no reason.

REASONS FOR GRANTING THE WRIT

Certiorari should be granted for these eleven reasons:

This Petition presents issues that goes to the basis of sections of the California statute and California Civil Procedure for small claims court which has never been known to be reviewed or ruled upon by the United States Supreme Court. This appears as a case in first blush.

The constitutional question(s) about the validity of the California statute and Civil Procedure sections have not been resolved.

The petitioner, or any respondent in a small claims case, essentially has had mandatory waiving of his constitutional rights to common law trial by the State of California without recourse, and this circumstance may be corrected by this Court.

A respondent at trial is subject to involuntary servitude [1] to comply in proceedings with absence of due process or

equal protection of the law when he/she is mandatorily committed to being in a compulsory California Civil Procedure trial where property may be taken without recourse to the trying of facts by jury or an experienced Judge, or appeal of issue of law, and these circumstances may be corrected by this Court.

This case before this Court appears to exist in a California proceedings that is contrary to the law and procedure acceptable to the state and United States Constitution, and this circumstance may be corrected by this Court.

The case is of universal importance in that all states of the United States have provisions for a type of Small Claims Court proceeding. The states have differences in conforming with the United States Constitutional admendments XIII, VII and XIV. Some are more compatible than others. The review and ruling of this Court will provide guidance and a measure as to

acceptable Small Claims Court statutes. Reference is made to the Small Claims Court Rules compiled by Ralph Warner (Author, Attorney and California Judge) in his text Small Claims Court.

The subject case of this Petition was in California proceedings that resulted in so many flaws and such a case is rarely, if at all, brought before this Court in a Writ of Certiorari for review. The character of a small claims case and the culture wherein it exists discourages appeals to higher courts and then to the United States Supreme Court where constitutional issues may be resolved.

The Petitioner does not have any other Court to request review of the judgment, and the United States Supreme Court is the Court of last resort.

This Court should grant certiorari here to specifically review and rule that particular California statutory sections

must comply with contitutional admend-ments providing for due process, equal protection of the law, and court or trial procedure.

Further, a ruling may be rendered that the case judgment at the Superior Court of California is void as to the Petitioner.

It is further prayed, that any other relief this Court may find applicable and proper may be granted to the Petitioner.

Footnote, page 20 : 1. Admendment XIII U.S. Constitution.

CONCLUSION

For the reasons set forth above, a Writ of Certiorari shaould issue to review the judgment of the Superior Court of California, and the denial for writs for review and rehearing of the Supreme Court of California, and the Court of Appeal of California, Fourth District, and such rulings should be rendered by this Court that are needed and proper.

Dated: August 24, 1992

Respectfully submitted

Ervin Sommer

ERVIN SOMMER, pro per
Petitioner

VERIFICATION

I, Ervin Sommer, the petitioner have reviewed and I am familiar with records filed in this proceeding described in and the subject of the present petition, and know the facts set forth are true and correct. I swear under penalty of perjury that the foregoing is true and correct to the best of knowledge.

Dated: August 24, 1992

Ervin Sommer

ERVIN SOMMER, pro per
Petitioner

APPENDIX

APPENDIX A

U S SUPREME COURT

Fourth Appellate District, Division One,

No. D016398

S026198

IN THE SUPREME COURT OF THE

STATE OF CALIOFRNIA

IN BANK

ERVIN SOMMER, Petitioner

v.

SAN DIEGO COUNTY SUPERIOR COURT,

Respondent

MARGARET D. SILZER, Real Party in Interest

Petition for review DENIED.

SUPREME COURT
FILED
MAY 27 1992
Robert Wandruff Clerk
DEPUTY

LUCAS

Chief Justice

APPENDIX B

U S SUPREME COURT

COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

FILED
Stephen M Kelly, Clerk
APR -7 1992
Court of Appeal Fourth District

ERVIN SOMMER, Petitioner v. THE SUPERIOR COURT OF SAN DIEGO COUNTY, Respondent; MARAGRET D. SILZER, Real Party in Interest	D016398 (Super. Ct. No. N53680)

THE COURT:

The petition for writ of certiorari, mandate or prohibition has been read and considered by Justices Wiener, Todd and Froehlich. The petition is denied.

WIENER

WIENER, Acting P.J.

Copies to: All parties

APPENDIX C

U S SUPREME COURT

FILED
KENNETH E MARTONE
Clerk of the Superior Court
FEB 14 1992
By: S. KUSH, Deputy

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN DIEGO

MARGARET D. SILZER Plaintiff/Respondent	SUPERIOR COURT CASE NO. N53680
vs.	SMALL CLAIMS
ERVIN M. SOMMER Defendant/appellant	CASE NO. 31582

JUDGMENT FOR PLAINTIFF AND RESPONDENT AFTER TRIAL DE NOVO ON APPEAL FROM JUDGMENT OF THE SMALL CLAIMS COURT.

The appeal of the defendant and appellant herein from a Judgment of the North County Judicial District, County of San Diego, State of California, duly came on for trial before the honorable Franklin J. Mitchell, Jr. Judge of the Superior Court, presiding in Department G on February 14, 1992: The defendant and appellant appearing in pro per

the plaintiff and respondent appearing in pro per and evidence having been adduced and the cause argued and submitted to the court for decision:

It is ordered, adjudged, and decreed that said plaintiff MARGARET D. SILZER have and recover from said defendant and appellant ERVIN M. SOMMER judgment in the sum of $ 1500.00, costs in the Small Claims Court in the sum of $ 48.00 and attorney's fee in the sum of $ 250.00 together with interest at the legal rate from the date of entry of judgment.

Dated: Febrruary 14, 1992

FRANKLIN J. MITCHELL, JR.

JUDGE OF SUPERIOR COURT

CERTIFICATE OF MAILING

I HEREBY CERTIFY: I am not a party to the above entitled cause: on the date as shown below, at (Vista) California, I placed a true copy, in a separate envelope addressed to each addressee as listed below and each

envelope was then sealed and deposited in the mail with the postage fully prepaid.

KENNETH E. MARTONE

CLERK OF THE SUPERIOR COURT

Dated February 18, 1992 by

S. Kush Deputy.

cc: Small Claims Court North County

Municipal Court Judicial District

338 Via Vera Cruz, Suite 101, San Marcos, CA 92069-2693 Via Mail Stop N107.

MARGARET D. SILZER 18218 Paradise Mtn. Rd. Space #111 Valley Center, CA 92082	ERVIN M. SOMMER P.O. Box 2277 Escondido, CA 92033

Sup Ct 275A (Rev. 1-90)

APPENDIX D

U S SUPREME COURT

IN THE MUNICIPAL COURT
SMALL CLAIMS DIVISION
NORTH COUNTY JUDICIAL DISTRICT
338 Via Vera Cruz, Suite 103, San Marcos,
California 92069-2688
SMALL CLAIMS CASE NO. 31582

NOTICE TO ALL PLAINTIFFS AND DEFENDANTS: Your small claims case has been decided. If you lost the case, and the court ordered you to pay money, your wages, money and property may be taken without further warning from the court. Read the back of the sheet for important information about your rights.

PLAINTIFF DEMANDANTE
(Name and address of each)
Margaret D. Silzer
18218 Paradise Mt. Rd., #111
Valley Center, CA 92082
(619) 749-3522

Defendant Demandado

(Name and address of each)

Ervin M. Sommer

1343 Taft

Escondido, CA 92026

(619) 746-8500

☐ See attached sheet for additional plaintiffs and defendants.

NOTICE OF ENTRY OF JUDGMENT

Judgment was entered as checked below

on (date): 9/23/91

1. ☐ Defendant (name, if more than one): shall pay plintiff (name, if more than one):
   $ 1500.00 principal and $ 48.00 costs on plainitff's claim.
2. ☐ Defendant does not owe plaintiff any money on plaintiff's claim.
3. ☐ Plaintiff (name, if more than one): shall pay defendant (name, if more than one):

$ principal and $ costs on defendant's claim.

4. ☐ Plaintiff does not owe defendant any money on defendant's claim.

5. ☐ Possession of the following property is awarded to plaintiff (address of property):

6. ☐ Payments are to made at the rate of $ per month, beginning on (date): and on the day of each month thereafter until paid in full. If any payment is missed, the entire balance becomes due immediately.

7. ☐ Other (specify):

DEFENDANTS CLAIM DENIED

IF NO APPEAL IS FILED, THE COURT WILL ORDER ALL UNCLAIMED EXHIBITS DESTROYED 95 DAYS AFTER THE ENTRY OF JUDGMENT.

8. Enforcement of the judgment is automatically postponed until the time for filing an appeal expires, and if filed,

until the appeal is decided.

9. ☐ This notice was personally delivered to (insert name and address):

10. CLERK'S CERTIFICATE OF MAILING - I certify that I am not a party to this action. This Notice of Entry of Judgment was mailed first class, postage prepaid, in a sealed envelope to the parties at the addresses shown above. The mailing and this certification occurred at the place and on the date shown below.

Place of mailing: San Diego California.

Date of mailing: 10/10/91

PATRICIA M. JOHNS Clerk by B A S , Deputy

You have a right to a small claims advisor free of charge. Read the information sheet on the reverse

NOTICE OF ENTRY OF JUDGMENT

U S SUPREME COURT

IN THE MUNICIPAL COURT

SMALL CLAIMS DIVISION

NORTH COUNTY JUDICIAL DISTRICT

338 Via Vera Cruz, Suite 103, San Marcos,

California 92069-2688

SMALL CLAIMS CASE NO. 31582

--- NOTICE TO DEFENDANT ---

YOU ARE BEING SUED BY PLAINTIFF

To protect your rights, you must appear in this court on the trial date shown in the table below. You may lose the case if you do not appear. The court may reward the plaintiff the amount of the claim and the costs. Your wages, money, and property may be taken without further warning from the court.

Plaintiff/Demandante

(name and address of each).

Margaret D. Silzer

18218 Paradise Mt. Rd., #111

Valley Center, CA 92082

Phone # (619) 749-3522

Defendant/Demandado

(name and address of each).

Ervin M. Sommer

1343 Taft

Escondido, CA 92026

Phone # (619) 746-8500

work address

218 East Grand Av. #209

Escondido CA

☐ See attached sheet for additional plaintiffs and defendants.

PLAINTIFF'S CLAIM

1. Defendant owes me the sum of $ 5,000.00 not including court costs, because (describe claim and date):
Breach of Contract Oct. 15, 1990, Fraud Sept. 24, 1990, Extortion Nov. 15, 1990,

Punitive damages to date.

2. I have asked defendant to pay this money, but it has not been paid.
3. This court is the proper court for the trial because c (in the box at the left, insert one of the letters from the list marked "Venue Table" on the back of this sheet. If you select D, E, or F, specify additional facts in this space.)
4. ☐ I have filed more than 12 claims in this court, including this claim, during the previous 12 calendar months.
5. I understand that
   a. I may talk to an attorney, about this claim, but I cannot be represented by an attorney at the trial in the small claims court.
   b. I must appear at the time and place of trial and bring all witnesses, books, receipts, and other papers or things to prove my case.

c. I have no right of appeal on my claim, but I may appeal a claim filed by the defendant in this case.

d. If I cannot afford to pay the fees for filing or service by a sheriff, marshall, or constable, I may ask that the fees be waived.

6. I have received and read the information sheet explaing some important rights of plaintiff's in the small claim court.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

Margaret D. Silzer. MARGARET D. SILZER

(TYPE OR PRINT NAME) (SIGNATURE OF PLAINTIFF)

ORDER TO DEFENDANT

You must appear in this court on the trial date and at the time LAST SHOWN IN THE BOX BELOW if you do not agree with the

plaintiff's claim. Bring all witnesses, books, receipts, and other papers or things with you to support your case.

	Date	Time	Place
TRIAL DATE	1. 7-26-91	8:15	338 Via Vera Cruz San Marcos, California 92069-2688
FECHA DEL JUICIO	2.08-30-91	8:15 AM	Resch

COURT USE

Filed on (date): 6-19-91

PATRICIA M. JOHNS Clerk. by mw, Deputy

- You have a right to a small claims advisor free of charge. Read the information sheet on the reverse -

PLAINTIFF'S CLAIM AND ORDER

TO DEFENDANT (Small Claims)

Form approved by the Judicial Council of California NCMC 145 (Rev. 2/89) Rule 982.7

U S SUPREME COURT

IN THE MUNICIPAL COURT

SMALL CLAIMS DIVISION

NORTH COUNTY JUDICIAL DISTRICT

338 Via Vera Cruz, Suite 103, San Marcos,

California 92069-2688

SMALL CLAIMS CASE NO. 31582

--- NOTICE TO PLAINTIFF ---

YOU ARE BEING SUED BY DEFENDANT

To protect your rights, you must appear in this court on the trial date shown in the table below. You may lose the case if you do not appear. The court may reward the plaintiff the amount of the claim and the costs. Your wages, money, and property may be taken without further warning from the court.

Plaintiff/Demandante

(name and address of each).

MARGARET D. SILZER

18218 PARADISE MTN. RD., SP #111

VALLEY CENTER, CA 92082

phone # (619) 749-3522

Defendant/Demandado

(name and Address of each).

ERVIN M. SOMMER, practitioner

218 E. GRAND AVE, SE 209

ESCONDIDO, CA 92025

phone # (619) 746-8500

☐ See attached sheet for additional plaintiffs and defendants.

DEFENDANT'S CLAIM

1. Plaintiff owes me the sum of $ 5,000.00 not including court costs, because (describe claim and date):
   Default and breach August, Sept, Oct, Nov & on 1990. Payment for work Sep/Oct of $1920 minimum. Fraud Aug 2, 22, 26, 31, Sept 3, 27, Oct 12, 22, Nov & Mar

1991. Extortion Sept 27, Nov 15, Oct 12, 22, Mar 1991. Punitive damages to date. Fraud and Extortion June 16, 1991. Abuse of process

2. I have asked plaintiff to pay this money, but it has not been paid.
3. I understand that
   a. I may talk to an attorney about this claim, but I cannot be represented by an attorney at the trial in the small claims court.
   b. I must appear at the time and place of trial and bring all witnesses, books, receipts, and other papers or things to prove my case.
   c. I have no right of appeal on my claim, but I may appeal a claim filed by the plaintiff in this case.
   d. If I cannot afford to pay the fees for filing or service by a sheriff,

marshall, or constable, I may ask that the fees be waived.

4. I have received and read the information sheet explaining some important rights of defendants in the small claims court.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: August 22, 1991

ERVIN M. SOMMER. Ervin M. Sommer

(TYPE OR PRINT NAME)(SIGNATURE OF DEFENDANT)

ORDER TO PLAINTIFF

You must appear in this court on the trial date and at the time LAST SHOWN IN THE BOX BELOW if you do not agree with the defendant's claim. Bring all witnesses, books, receipts, and other papers or things with you to support your case.

TRIAL DATE / FECHA DEL JUICIO	Date	Time	Place
	1. 9-23-91	8:15 AM	North County Municipal Court 338 Via Vera Cruz Suite 103 San Marcos, CA 92069-2688
	2.		
	3.		

COURT USE

Filed on (date): 8-22-91

PATRICIA M. JOHNS Clerk. by S SCANLON, Deputy

- You have a right to a small claims advisor free of charge. Read the information sheet on the reverse.-

DEFENDANT'S CLAIM AND ORDER

TO PLAINTIFF (Small Claims)

Form approved by the Judicial Council of California SC120 (Rev. January 1, 1985)

NCMC 141 (Rev. 2/85) Rule 982.7

APPENDIX F

APPARENT MOTIVATION OF PLAINTIFF(S)

EXPLANATION

Events in a parallel case in Divorce in the Superior Court are important considerations in considering motivations of plaintiff and collaborators to be against Petitioner Sommer.

(1) The divorce case proceedings in Superior Court was delayed for 2 years.

(2) The Court has placed a $700 penalty against the plaintiff relative to the delay.

(3) A statement was that parties were looking for an angle to use in the Divorce case trial. A statement had been made to Sommer that "I need something to pin on G C Silzer" to give leverage at trial and negotiations.

(4) It became apparent that an objective Estate Analysis may include impartial infomation that could not be changed to favor the plaintiff in the attack upon separate assets.

(5) It became apparent that an objective Analysis would disclose infomation that may be contrary to that made by party(s) in public records/documents.

(6) The attack on Sommer and the Small Claims filing occurred about 2 months before September 1991 Divorce trial. This was considered intentional to discredit the Analysis and Sommer to prevent any application to the Divorce trial.

(7) In the Divorce trial the evidence and a report filed by plaintiff was considered biased and had missing infomation desireable for a Divorce settlement. The Court commented on a reporting and financial presentation.

(8) A goal of plaintiff appeared to be the acquisition of about an additional $200,000.00 in assets that had been designated as sole property.

APPENDIX G

PARTIAL LISTING OF ISSUES AND MOTIONS

NOT PERMITTED IN COURT

The Petitioner Sommer had available the following motions before the Small Claims Court (Commissioner Ornelas) and in the Appeal Bill of Particulars for the Superior Court.

(A) Motion to DISMISS. Personal Service did not occur and the Notice of Service is false. Denied by the Commissioner.

(B) Motion to transfer the case to the Municipal Court for a regular trial. Motion denied by the Commissioner.

(C) Same as (A) in the Bill of Particulars - Superior Court.

(D) Same as (B) in the Bill of Particulars - Superior Court.

(E) DEMURRER. Motion to dismiss the case. Silzer does not have a cause for action, and she did not present a case before the Court.

(F) Failure to Inform of Case Basis and provide Case Documents - M D Silzer.

(G) Motion to Dismiss. Competency of M Silzer.

(H) Motion to Dismiss the Case and Judgment. Fourteen items of irregularity of statements and facts by Plaintiff Silzer.

(I) Judgment to be for Sommer. Silzer can not repudiate a completed agreement. Agreement bilateral.

(J) Motion to Dismiss Case and Judgment. Maintenance of Case by Silzer, Meddlers, Intruders and Provocateur.

(K) Disregard the Declaration. Declaration provided (by Plaintiff) was false and erroneous, as well as irrelevant.

APPENDIX H

United States Constitution Admendments.

SEVENTH ADMENDMENT

In suits at common law, where the value in controversy shall exceed 20 dollars, the right of trial by jury shall be preserved, and no fact tried by jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of common law.

THIRTEENTH ADMENDMENT

Section 1. Neither slavery nor involuntary servitude, except as punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

FOURTEENTH ADMENDMENT

Section 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the States wherein they reside. No State shall make or enforce

any law which shall abridge the privileges and immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny any person within its jurisdiction the equal protection of the laws.

LIST OF DOCUMENTS FILED IN COURTS:

Municipal Court, Small Claims Division:

Notice of Plaintiff, Counter Claim

Letter of Confirmation August 23, 1990

Notice of Appeal to Superior Court

(Copies of documents filed in higher courts)

Superior Court of California:

Bill of Particulars of Appeal

Estate Analysis Report Oct 10, 1990

Writ of Certiorari to Court of Appeal of Calif.

Request for Reconsideration to Court of Appeal

Petition for Review to Supreme Court, Calif.

Petition for Rehearing to Supreme Court,Calif.

Writ of Certiorari to the U.S.Supreme Court

Court of Appeal of California:

Writ of Certiorari, Mandate or Prohibition

Request for Reconsideration

(Documents as attachments to the Writ as filed in lower courts and higher courts)

Supreme Court of California:

Petition for Review

Petition for Rehearing

Writ of Certiorari to Court of Appeal

Request for Reconsideration to Court of Appeal

(Documents as attachments to the Petition for Review as filed in lower courts)

NAMES AND ADDRESSES OF INTEREST PARTIES:

SUPREME COURT OF CALIFORNIA
ATTENTION: OFFICE OF THE CLERK
300 SOUTH SPRING STREET, ROOM 2752
LOS ANGELES, CALIFORNIA 90013

COURT OF APPEAL OF CALIFORNIA
ATTENTION: OFFICE OF THE CLERK
FOURTH DISTRICT, DIVISION 1, 750 B STREET
SUITE 500, SAN DIEGO, CALIFORNIA 92101

SUPERIOR COURT OF CALIFORNIA
ATTENTION: OFFICE OF THE CLERK, APPEALS DEPT.
SAN DIEGO COUNTY, NORTH COUNTY BRANCH
325 S. MELROSE DRIVE, VISTA,CALIFORNIA 92038

SMALL CLAIMS COURT,
ATTENTION: OFFICE OF THE CLERK
MUNICIPAL COURT, 600 EAST VALLEY PARKWAY
ESCONDIDO, CALIFORNIA 92025

ATTORNEY GENERAL OF CALIFORNIA
DEPARTMENT OF JUSTICE, 1515 K STREET,STE 511
P.O. BOX 94425
SACRAMENTO, CALIFORNIA 94244-2550

REAL PARTY IN INTEREST:
MARGARET D. SILZER
18218 PARADISE MTN. ROAD SPACE 111
VALLEY CENTER, CALIFORNIA 92082

PETITIONER:
ERVIN SOMMER phone (619) 746-8500
P.O. BOX 2277, ESCONDIDO, CALIFORNIA 92033